

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Andrew Michael Moser,

Plaintiff,

v.

Major Vaughn, Chad McBride, A. Belk,
T. Kerr.,

Defendants.

Civil Action No. 9:21-3260-BHH

ORDER

This matter is before the Court for review of the Report and Recommendation ("Report") of United States Magistrate Judge Molly H. Cherry, which was made in accordance with 28 U.S.C. §636(b) and Local Rule 73.02(B)(2) for the District of South Carolina. On December 13, 2021, the Magistrate Judge issued her Report recommending that this case be dismissed without prejudice and without issuance and service of process based on Plaintiff's failure to state a claim against the named Defendants and because Plaintiff failed to bring his case into proper form or to respond to the Magistrate Judge's order filed on November 3, 2021.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made.

To date Plaintiff has not filed objections, and the time for doing so has expired. In the absence of objections to the Magistrate Judge's Report, the Court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Here, because no objections have been filed, the Court has reviewed the Magistrate Judge's findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that Plaintiff has failed to provide a response to the proper form order or to contact the Court in any way. Accordingly, the Court dismisses this action in accordance with Rule 41 of the Federal Rules of Civil Procedure. Thus, the Court adopts the Report (ECF No. 13) and dismisses this action without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

January 24, 2022
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.